

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 13TH DAY OF AUGUST 2015/22ND SRAVANA, 1937

MACA.No. 1878 of 2015 ()

**AGAINST THE AWARD IN OPMV 238/2010 of MOTOR ACCIDENTS CLAIMS TRIBUNAL,
KOZHIKODE DATED 11-07-2011**

APPELLANT/PETITIONER :

**N.V. MUKESH, AGED 30 YEARS,
S/O.VISWANATHAN, ALANCHERY PARAMBA,
MANGOTTUVAYAL P.O., KOTTOOLI, CALICUT-16.**

**BY ADVS.SRI.V.S.CHANDRASEKHARAN
SMT.LEKSHMI SWAMINATHAN
SRI.M.V.DAS
SMT.MARIAN G.M.THARAKAN
SRI.S.JAYAKUMAR**

RESPONDENT/2ND RESPONDENT :

**NEW INDIA ASSURANCE COMPANY LTD.,
ITS REPRESENTED BY BRANCH MANAGER,
VARIKKADAN BUILDING, NILAMBUR ROAD,
MANJERI.P.O., MALAPPURAM DISTRICT-676121.**

**R1 BY ADV. SRI.PMM.NAJEEB KHAN
BY SRI.A.A.ZIYAD RAHMAN**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 13-08-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

P.B.SURESH KUMAR, J.

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M.A.C.A.No.1878 of 2015.

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Dated this the 13th day of August, 2015.

J U D G M E N T

The claimant in a petition for compensation before the Motor Accidents Claims Tribunal has come up in this appeal challenging the quantum of compensation granted by the Tribunal.

2. The claimant is a coolie. He was aged 26 years at the time of accident. The accident took place on 27.8.2009. A sum of Rs.1,00,000/- was claimed in the petition by way of compensation. The Tribunal, on an appraisal of the materials on record, found that the claimant is entitled to only a sum of Rs.38,251/- and accordingly, an award was passed for the said amount. As the vehicle involved in the accident was covered by a valid insurance policy, the insurer was directed to satisfy the award. The claimant is aggrieved by the said award.

3. Heard the learned counsel for the claimant and the learned counsel for the insurer.

4. The claimant sustained fracture of both bones of his left leg in the accident. He was admitted and treated as inpatient in the hospital for 13 days. The Tribunal granted compensation to the claimant towards loss of earnings for a period of three months reckoning his monthly income at Rs.3,000/-. Since the accident took place in the year 2009, according to me, the Tribunal should have granted Rs.18,000/- towards compensation on that head to the claimant reckoning his monthly income at Rs.6,000/- per month. The claimant is therefore entitled to get a sum of Rs.9,000/- more towards compensation for loss of earnings. Towards extra nourishment, only a sum of Rs.1,000/- is seen granted by the Tribunal. As noticed above, the claimant sustained fracture of both bones on his left leg in the accident. As such, according to me, the claimant is entitled to a further sum of Rs.2,000/- towards compensation for extra nourishment. Towards bystander's expenses, the

Tribunal granted only a sum of Rs.1,950/-. Since the accident took place in the year 2009, the claimant should have been granted bystander's expenses at the rate of Rs.300/- per day. The claimant is, therefore, entitled to a further sum of Rs.1,950/- towards compensation on that head. Though a sum of Rs.18,000/- has been granted by the Tribunal towards pain and sufferings, only a sum of Rs.6,000/- has been granted towards loss of amenities and enjoyments in life. Since the claimant was a coolie, in the nature of the injuries sustained by him in the accident and the treatment undergone by him, I am of the view that the claimant is entitled to some more amounts towards compensation for pain and sufferings and also for loss of amenities and enjoyments in life. The claimant is, therefore, granted a further sum of Rs.9,000/- towards compensation for loss of amenities and enjoyments in life and a further sum of Rs.2,000/- towards compensation for pain and sufferings. Thus, the claimant is entitled to a further sum of Rs.21,950/- towards compensation.

5. It is seen that interest has been granted by the Tribunal for the compensation awarded only at the rate of 7% per annum. It is now settled that the claimant in a proceedings of this nature is entitled to interest for the compensation awarded at the rate of 9% per annum.

In the result, the appeal is allowed in part. The compensation granted by the Tribunal is modified granting a further sum of Rs.21,950/- to the claimant by way of compensation. Needless to say, the claimant will be entitled to interest for the whole amount of compensation at the rate of 9% per annum, except for the period of delay in filing the appeal, viz., 1334 days as ordered in C.M.Application No.2086 of 2015.

**Sd/-
P.B.SURESH KUMAR, JUDGE.**

Kvs/-

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PA TO JUDGE.